

Not Intended for Print Publication

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

ALVARO PANIAGUA GARCIA,)	
)	
Petitioner,)	Case No. 7:06CV00401
)	
v.)	OPINION
)	
UNITED STATES OF AMERICA,)	By: James P. Jones
)	Chief United States District Judge
Respondent.)	

The petitioner, a federal inmate proceeding pro se, has filed a Motion for Authorization to File Collateral Review, which I construe as a Motion to Vacate, Set Aside, or Correct Sentence, pursuant to 28 U.S.C.A. § 2255 (West Supp. 2005). Upon review of the motion and court records, I find that the § 2255 motion must be dismissed as successive.

This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. *See* § 2255 para. 8. Petitioner previously filed a § 2255 Motion challenging the same conviction and sentence that he attacks in his current Motion. I dismissed this prior Motion as untimely filed. *See Garcia v. United States*, Case No. 7:06CV00084 (W.D. Va. Mar. 17, 2006)

(unpublished). As the petitioner offers no indication that he has obtained certification from the court of appeals to file a second or successive § 2255 motion, I must dismiss his current action without prejudice.¹ A separate Final Order will be entered herewith.

ENTER: July 14, 2006

/s/ JAMES P. JONES
Chief United States District Judge

¹ To obtain certification from the Fourth Circuit, the petitioner must submit a copy of the § 2255 motion to the court of appeals, along with a motion requesting certification for the district court to review a successive § 2255 motion. *See* 28 U.S.C.A § 2244 (West Supp. 2005). Petitioner may write to request a form and instructions for filing this motion at the following address: Office of the Clerk, United States Court of Appeals for the Fourth Circuit, 900 E. Main St., Richmond, VA 23219.